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Before the
Federal Communications Commission
Washington, D.C. 20554

OCT 10 1995

In the Matter of)
)
Local Exchange Carriers' Rates, Terms, and)
Conditions for Expanded Interconnection) CC Docket No. 94-97
Through Virtual Collocation for Special) Phase I
Access and Switched Transport)

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BELL ATLANTIC'S¹ REPLY TO OPPOSITIONS

MFS and MCI say they to want Bell Atlantic to offer term and volume arrangements as part of the virtual collocation offering.² Their posture before the Commission, however, belies their claim and, instead, confirms that they intend to oppose any collocation-related filing, regardless of its merits. This is no more transparent than in the instant case, where both parties merely raise procedural smokescreens while not even attempting to address the substance of Bell Atlantic's Motion.³ In fact, MFS, in the course of getting bogged down in its procedural quagmire, asks the Commission to

¹ The Bell Atlantic telephone companies ("Bell Atlantic") are Bell Atlantic-Delaware, Inc.; Bell Atlantic-Maryland, Inc.; Bell Atlantic-New Jersey, Inc.; Bell Atlantic-Pennsylvania, Inc.; Bell Atlantic-Virginia, Inc.; Bell Atlantic-Washington, D.C., Inc.; and Bell Atlantic-West Virginia, Inc.

² See MFS Communications Company, Inc. Opposition to Bell Atlantic Motion to Vacate Prescription at 4 ("MFS"); MCI Opposition at 7-8 ("MCI").

³ Motion to Vacate Prescription (filed Sept. 18, 1995) ("Motion").

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require the very services that Bell Atlantic wants to provide but which MFS's oppositions are delaying.

The need for Bell Atlantic's Motion was precipitated when MCI and MFS, among others, opposed a Bell Atlantic tariff filing that introduced term pricing plans for virtual collocation services.⁴ The petitioners claimed that the rates in the term plans were unlawful, because they were derived using overhead loadings that differed from those the Commission had prescribed last year for virtual collocation services.⁵ Although Bell Atlantic showed that the overhead loadings used in its proposed term pricing plans comported with the Commission's stated policy for calculating such loadings,⁶ it became clear that the Common Carrier Bureau staff intended to suspend the tariff for five months and initiate an investigation of the overhead loadings. In an effort to expedite the initiation of term plans, which MFS and other collocators had requested, Bell Atlantic chose to withdraw the tariff and submit the Motion to allow the Commission to revise the process for calculating overhead loadings unencumbered by a pending tariff. As soon as the currently prescribed overhead loadings are vacated and the Commission revises its method of calculating loadings in a manner consistent with its stated policy,⁷ Bell Atlantic

⁴ Transmittal No. 784 (filed June 1, 1995) ("Tr. 784")

⁵ MFS Communications Company, Inc. Petition to Reject, or Alternatively, to Suspend and Investigate Proposed Tariff Revisions ("MFS") at 4; MCI Petition to Reject ("MCI") at 3-7 (filed June 16, 1995)

⁶ Reply to Petitions at 2-3 (filed June 26, 1995) ("Reply").

⁷ That policy is "LECs may not recover a greater share of overhead costs in their rates for virtual collocation services than they recover in rates for 'comparable services,' absent justification." *Local Exchange Carriers' Rates, Terms, and Conditions for Expanded Interconnection Through Virtual Collocation for Special Access and Switched Transport, Report and Order*, 10 FCC Rcd 6375, ¶ 5 (1995).

intends to file term pricing plans, as well as the volume arrangements which MFS and other collocators have also requested.⁸

MCI contends that the Motion should be dismissed as an untimely petition for reconsideration of the overhead prescription.⁹ Bell Atlantic does not in the Motion, however, claim that the initial prescription was invalid when applied to the tariff before it and the circumstances at the time and does not ask for that decision to be reconsidered.¹⁰ Instead, Bell Atlantic shows that both the tariff and the comparable loadings that provided the underpinning of the initial prescription have changed, and that the prescription must therefore be revised.¹¹ As MCI accurately states, Bell Atlantic is asking the Commission not to lock in any static prescription number but to establish overheads that “match those of similar access services.”¹²

MCI erroneously contends that Bell Atlantic has failed to provide any evidence that the overhead loadings for comparable access services have changed.¹³ Bell Atlantic

⁸ *See* MFS at 4. When MFS and MCI filed their petitions, Bell Atlantic was preparing a virtual collocation tariff filing that included volume pricing arrangements. Rather than compound the issues before the Commission, Bell Atlantic decided to wait to file until the issues raised in those petitions were resolved.

⁹ MCI at 5-7.

¹⁰ As MCI points out, Bell Atlantic has pending a Petition for Partial Reconsideration (filed July 5, 1995) that addresses different issues relating to the calculation of the overheads.

¹¹ Motion at 2-3.

¹² MCI at 5.

¹³ *Id.* at 6-7.

showed that the overheads changed by listing the current overheads of the comparable access services both in the virtual collocation transmittal¹⁴ and in its reply to the petitions of MCI and others on that filing.¹⁵ Bell Atlantic has amply justified the changed circumstances, and MCI's claim to the contrary is baseless.

MFS's fallacious procedural argument is that the Motion is unauthorized, because it violates Section 1.45(c) of the Commission's Rules.¹⁶ That subsection, however, states that surreplies to replies to oppositions to motions are not permitted unless authorized by the Commission. The Motion is a new filing, to which oppositions and replies are expressly authorized.¹⁷

Putting aside the frivolous procedural arguments, neither MFS nor MCI disputes Bell Atlantic's substantive arguments that the "comparable" access tariff that underlay the Commission's overhead loadings prescription has changed,¹⁸ nor that the term plan is a different tariff offering from that before the Commission at the time of the prescription. Neither expresses any quarrel with Bell Atlantic's showing that a slavish adherence to the prescribed overhead number would be inconsistent with the Commission's policy to equate the collocation loadings to comparable access services. In fact, MFS explicitly favors that policy: "MFS strongly believes that the Commission must require Bell

¹⁴ Tr. 784 at Workpaper 6

¹⁵ Reply at Exh. 1

¹⁶ 47 C.F.R. § 1.45(c).

¹⁷ *See* 47 C.F.R. § 1.45 (a) and (b).

¹⁸ Although MCI erroneously asserts that Bell Atlantic has not shown changed circumstances, it never disputes the merits of Bell Atlantic's arguments.

Atlantic, as well as every other LEC, to tariff volume and term discounted rates with discount levels similar to those provided to customers of comparable special or switched access services.”¹⁹ That is precisely what Bell Atlantic wants to file, and what MFS and MCI are attempting to thwart at every turn.

In meeting the requests of MFS and other collocators, however, Bell Atlantic is not going to turn its back on its traditional access customers. Just as Commission policy requires that collocators are not disadvantaged, so the Commission should acknowledge that traditional access customers are likewise not to be disfavored in establishing access rates. Grant of the Motion will allow term and volume rates for both to move in tandem, favoring neither.

¹⁹ MFS at 4.

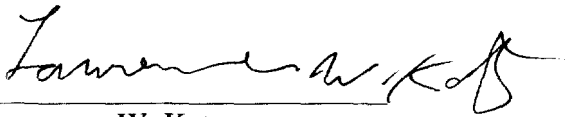
Accordingly, the Commission should promptly grant Bell Atlantic's Motion to Vacate Prescription so that reasonably-priced term and volume arrangements may become available promptly to virtual collocators.

Respectfully Submitted,

**The Bell Atlantic Telephone
Companies**

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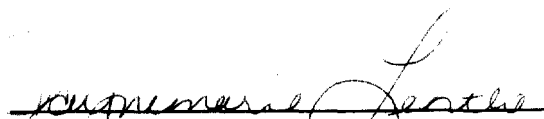

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October 10, 1995

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing "Bell Atlantic's Reply To
Oppositions" was served this 10th day of October, 1995 by first class mail,
postage prepaid, on the parties on the attached list.


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